

**From:** Serge Loginow Jr  
**To:** fobmail:oadal5:PCUNIX:CAD:CONV:B4.B4:SBARONE  
**Date:** 8/4/95 9:46am  
**Subject:** Gerald Turro Update # 2

On site monitoring in area of the Fort Lee NJ translator on August 2, 1995. The audio quality appeared to be very high. It was particularly free of sideband splatter from adjacent FM stations as was observed previously. Telephoned Turro and asked for an inspection of the Fort Lee translator. He replied no problem, he can be there in about twenty minutes. Turro arrived and demonstrated off air reception of the Pomona NY translator (94.3 MHz) by deactivating the receiver and observing the loss of audio output from the translator. He then offered to make a similar demonstration at the Pomona NY translator with the engineer. Turro and Loginow went to Pomona NY. The output of the translator there was deactivated and again the Fort Lee translator was observed to lose audio output. Turro had installed additional filters at Pomona to greatly improve the reception of WJUX Monticello NY.

It appears that Turro is now able to provide a consistent high quality audio signal off air from the Pomona NY translator at the Fort Lee NJ location.

Furthermore, while at Fort Lee, Turro demonstrated the ability to receive moderately good audio directly from WJUX Monticello (99.7 MHz). Again, he was using filters similar to those he installed at Pomona NY. Turro said he plans to fine tune the equipment to further improve the Monticello signal quality and then permanently connect it as part of the translator station.

Serge



ATT.C

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
AUG 20 1997  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re

GERARD A. TURRO

For Renewal of License  
for FM Translator Stations

W276AQ(FM), Fort Lee, NJ, and  
W232AL(FM), Pomona, NY

MONTICELLO MOUNTAINTOP  
BROADCASTING, INC.

Order to Show Cause Why the Construction  
Permit for FM Radio Station WJUX(FM),  
Monticello, NY, Should Not Be Revoked

To: Monticello Mountaintop Broadcasting, Inc.

MM Docket No. 97-122

File Nos. BRFT-970129YC  
BRFT-970129YD

Federal Communications Commission	
Docket No. 97-122	Exhibit No. MMB-17
Presented by FCC	
Disposition	Identified <input checked="" type="checkbox"/>
	Received <input checked="" type="checkbox"/>
	Rejected <input type="checkbox"/>
Reporter	PK
Date	11-24-97

**ANSWERS OF SERGE LOGINOW, JR. TO INTERROGATORIES  
OF MONTICELLO MOUNTAINTOP BROADCASTING, INC.**

On August 8, 1997, Monticello Mountaintop Broadcasting, Inc. ("MMBI") by its attorneys, submitted interrogatories to the Mass Media Bureau ("Bureau") for answer by Serge Loginow, Jr. ("Loginow"), an FCC employee. Pursuant to Section 1.311 of the Commission's Rules, the Bureau provides the following answers.

Answers

Interrogatory 1: 1974 to the present.

Interrogatory 2: I received a BS in Electrical Engineering in 1973 from Drexel

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University, Philadelphia, Pennsylvania.

Interrogatory 3: In 1973, I was employed by Dynaco, Inc., Philadelphia, Pennsylvania, as an audio engineer.

Interrogatory 4: 1985 to present: Field Operations Bureau / Compliance and Information Bureau ("CIB"), New York District Office;  
1980 - 1985: Field Operations Bureau, Atlanta District Office;  
1974 - 1980: Field Operations Bureau / Special Enforcement Facility, Powder Springs, Georgia.

Interrogatory 5: (a) Approximately 250.  
(b) The vast majority had remote control. Very few, less than 10, had telephone control.  
(c) None just for that purpose. It is one of many factors routinely observed in the course of a station inspection.

Interrogatory 6: (a) Yes.  
(b) April 13, 1995.

Interrogatory 7: Exact times were not noted. Jeff Young, Investigations Branch, CIB, requested that I inspect WXTM at the written request of Norman Goldstein, Compliance and Investigations Branch, Mass Media Bureau. Sometime after 9 a.m. on April 13, 1995, I went to the address listed for the main studio of WXTM in Ferndale, New York. Although I was able to locate another radio station, WVOS, Monticello, there was no indication at that location that it also served as the main studio for WXTM. I inquired at the local post office to find out if they knew where WXTM was located, but was unsuccessful. I then called directory assistance and was given a telephone number for WXTM. When I called that

number, the call was answered "Jukebox Radio." The person who answered the telephone provided me with directions to the studios of WXTM. Pursuant to standard investigative procedures, I did not, at that time, identify myself over the telephone as a member of the FCC's staff. It was not until I arrived at the studios of WVOS that I identified myself as an FCC field inspector.

I arrived at WXTM around 10 a.m. and observed a few people at that location. I may have incidentally spoken to the board operator on the air at that time. There was no receptionist for WXTM. Finally someone came over to ask what I wanted. At that time, I identified myself as an FCC field inspector. Eventually, I was directed to Gene Blabey, who represented WXTM. Blabey confirmed that WXTM's studios were located at that site. I asked for information concerning WXTM. Blabey responded that there was not much to show me, as most of WXTM's affairs were handled at the Dumont studios for Jukebox Radio. He also stated that all program logs for WXTM were kept in Dumont. Blabey offered to show me WXTM's public file, but I declined. Blabey provided me with a copy of a network agreement between WXTM and Jukebox Radio. I also asked to see the WXTM studios and Blabey escorted me to what he described as a former production room for WVOS that he identified as the studios for WXTM. I saw some equipment, including a control board, some tape machines, and a microphone. I did not see any EBS equipment. I asked Blabey if there was equipment to control the WXTM transmitter from that location and was informed by Blabey that there was none. I asked Blabey if WXTM ever originated programming from that site. Blabey stated that WXTM did not originate programming for broadcast from that location. I also asked if WXTM could originate programming from that site and deliver it to

the transmitter for broadcast. Blabey informed me that it could not be done remotely without first going to and adjusting equipment at the transmitter site.

During this investigation, I briefly spoke with Carol Montana, another WXTM employee regarding her duties at WXTM, the substance of which is recounted in the Radio Station Inspection Report I prepared. Blabey also informed me that there were no other WXTM employees at that location.

During the course of this investigation, Blabey informed me that Turro was on the telephone and wished to speak with me. I then spoke to Turro by telephone. Turro identified himself as the Chief Operator for WXTM. Turro asked me what I was doing there, and I responded that I was conducting a routine inspection. I asked Turro where the remote control equipment and station logs for WXTM were located, and Turro replied that both were at the Jukebox Radio studios in Dumont.

I then informed Turro that I wanted to visit the WXTM transmitter that day. Turro stated that I should drive to the transmitter site for WXTM with Blabey. I also informed Turro that I was going to Dumont the next morning to test whether the Ft. Lee and Pomona translators were receiving the over-the-air-signal of WXTM by switching the WXTM transmitter on and off and listening to the translators. Turro told me that because the WXTM transmitter was recently hit by lightning, he preferred that the transmitter be turned on and off by an experienced engineer at the transmitter rather than by remote control. Blabey stated that he would arrange for someone to be posted at the transmitter site, and he gave me the telephone number at the transmitter site.

Blabey and I drove to the WXTM transmitter site in my car. At the transmitter site, I

looked at the transmitter and observed equipment for remote control operation of the transmitter. I then drove Blabey back to Ferndale. I dropped him off about mid-afternoon. I did not take any breaks during this time period.

Interrogatory 8: See Response to interrogatory 7.

Interrogatory 9: See Response to interrogatory 7.

Interrogatory 10: (a) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

(b) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

Interrogatory 11: (a) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

(b) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

(c) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

Interrogatory 12: (a) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

(b) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

(c) See Response to interrogatory 7 and Radio Station Inspection Report. I have no other specific recollection.

Interrogatory 13: See Response to interrogatory 7. I have no other specific

recollection.

Interrogatory 14: Yes. By spoken word. See Radio Station Inspection Report. I have no other specific recollection.

Interrogatory 15: While conducting the inspection of WXTM on April 13, 1995, Gerard Turro stated by telephone that the remote control for the WXTM transmitter was located at Jukebox Radio in Dumont, New Jersey. He also stated that the meter readings for WXTM were done there. Eugene Blabey stated that there was no remote control for the WXTM transmitter in the room identified as the WXTM studio.

Interrogatory 16: (a) I did not draw a personal conclusion; I have only recounted direct statements made to me.

(b) Turro and Blabey specifically stated that there was no remote control at the WXTM studios; Turro specifically stated that the operating parameters for the station were taken at Jukebox Radio in Dumont.

Interrogatory 17: Yes. Jeff Young, Investigations Branch, CIB, requested that I inspect WXTM at the request of Norman Goldstein, Compliance and Investigations Branch, Mass Media Bureau.

Interrogatory 18: By document. That document is attached hereto.

Interrogatory 19: Not applicable. See interrogatory 18.

Interrogatory 20: See interrogatory 18.

Interrogatory 21: See interrogatory 18.

Interrogatory 22: I typed that document.

Interrogatory 23: (a) Between April 15 and May 23, 1995.



(b) Yes.

(c) The notes were discarded.

Interrogatory 24: Not applicable. See interrogatory 22.

Interrogatory 25: (a) Yes.

(b)(i - viii) On April 14, 1995, I drove an FCC vehicle equipped with Mobile Automatic Direction Finding equipment to a location on Route 9 in New Jersey, where both the Pomona and Ft. Lee translator signals could be received. On a cellular telephone in the Commission vehicle, I then called the telephone number for the WXTM transmitter site provided to me by Blabey the day before. I do not know who answered the telephone. I identified myself to the person who answered the telephone, and asked whether he was ready to begin testing. When instructed to "kill it," referring to turning the transmitter off, I monitored two receivers, one for each translator, which each produced "white noise" on the translators' frequencies. I was unable to determine whether the Monticello transmitter was actually turned off, but the white noise I heard on the translators' frequencies was consistent with the WXTM transmitter being turned off and a resulting in the loss of that over-the-air signal by the translators. As I got the expected results from the transmitter shut-off, I conducted this test once.

The fact that this test was disclosed to Blabey and Turro before it was conducted is consistent with sound investigative techniques employed by the field staff. The results of such testing are used as a frame of reference for later unannounced monitoring to determine any variations in operation. These procedures are consistent with investigative techniques used by the FCC field staff.

After the conclusion of this testing, I went to the Dumont studios of Jukebox Radio.

I observed many employees at that studio and was shown the premises by station personnel, although I do not recall any specific name. At my request, I was shown the remote control equipment for WXTM, but I did not inspect or test that equipment.

Interrogatory 26: No.

Interrogatory 27: Not applicable. See interrogatory 26.

Interrogatory 28: No.

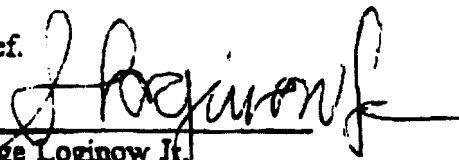
Interrogatory 29: (a) Yes.

(b) I have no specific recollection other than stating to Turro that the relinquishment of control of a broadcast station is considered to be a very serious offense by the Commission.

(c) See interrogatory 29(b). It is possible that I may have spoken to Steve Lynn of the Wireless Telecommunications Bureau ("WCB"), as well as my supervisor, Jeff Young of the

Investigations Branch, CIB. In that regard, on July 31, 1995, at the telephonic request of Lynn, I confirmed that Inter-City Relay WMG-499 was turned off.

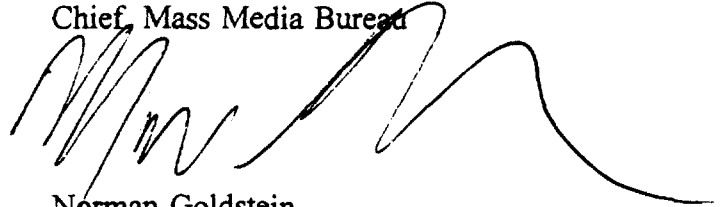
I, Serge Loginow, Jr., hereby swear under penalty of perjury that the foregoing answers are true and correct to the best of my knowledge and belief.

  
Serge Loginow Jr.

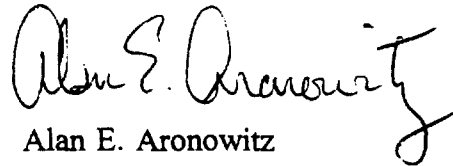
000269

Respectfully submitted,

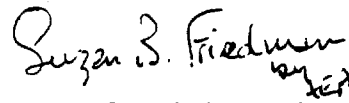
Roy J. Stewart  
Chief, Mass Media Bureau



Norman Goldstein  
Chief, Complaints & Political  
Enforcement Division  
Mass Media Bureau



Alan E. Aronowitz  
Attorney  
Mass Media Bureau



Suzan B. Friedman  
Attorney  
Mass Media Bureau

Federal Communications Commission  
2025 M Street, N.W., Suite 8210  
Washington, D.C. 20554  
(202) 418-1430

August 20, 1997

**ATTACHMENT 1**

**000271**

From: Serge Loginow  
To: SLINN,SBARONE  
Date: 8/1/95 12:09pm  
Subject: Gerald Turro Update

Gerald Turro Update

On site monitoring in area of Jukebox Radio studio in Dumont NJ on July 31, 1995. The STL (WMG499) was not observed to be in operation on 951.00 MHz, or any frequency near 951.00 MHz.

The audio quality of the Fort Lee NJ translator signal, however, indicated that the input signal was NOT off air from the Pomona NY translator on 94.3 MHz as licensee Gerald Turro claims, but rather ~~from alternate means~~, presumably via telephone lines. (The audio quality of Fort Lee via off air means had been observed during April 1995 when WXTM Monticello NY and Jukebox Radio was inspected.)

000272

From: Serge Loginow Jr  
To: fobmail:oadal5:PCUNIX:CAD:CONV:B4.B4:SBARONE  
Date: 8/4/95 9:46am  
Subject: Gerald Turro Update # 2

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It appears that Turro is now able to provide a consistent high quality audio signal off air from the Pomona NY translator at the Fort Lee NJ location.

Furthermore, while at Fort Lee, Turro demonstrated the ability to receive moderately good audio directly from WJUX Monticello (99.7 MHz). Again, he was using filters similar to those he installed at Pomona NY. Turro said he plans to fine tune the equipment to further improve the Monticello signal quality and then permanently connect it as part of the translator station.

Serge

000273

**ATTACHMENT 2**

**000274**



**CONFIDENTIAL**

-----  
ROUTING AND TRANSMITTAL SLIP      DATE: March 8, 1995  
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TO: (Name, office symbol, room number, building, Agency/Post)

1. Jeff Young, Investigations Branch
2. Compliance and Information Bureau
3. 1919 M Street, Room 744, Stop Code 1500E1

**Not For Public Inspection**

4.	<input checked="" type="checkbox"/> Action	File	Note and Return
	<input type="checkbox"/> Approval	For Clearance	Per Conversation
	<input checked="" type="checkbox"/> As Requested	For Correction	Prepare Reply
	<input type="checkbox"/> Circulate	For Your Info	See Me
	<input type="checkbox"/> Comment	Investigate	Signature
	<input type="checkbox"/> Coordinate	Justify	

**REMARKS:**

The Complaints and Investigations Branch recently received the attached correspondence from Cohn & Marks, 1333 New Hampshire Avenue, NW, Washington, DC 20036-1573 on behalf of their client, Universal Broadcasting of New York, Inc., licensee of Station WVNJ(AM), Oakland, NJ.

Based upon a report of its consulting engineers, Cohen, Dippell and Everist of Washington, DC, the complainant has alleged that Mr. Gerald A. Turro, licensee of FM Translator Stations W276AQ FM (103.1 MHz), Ft. Lee, NJ and W232AL (94.3 MHz), Pomona, NY and Aural Intercity Relay Station (STL) WMG-499, Dumont, NJ (951 MHz), is originating all programming for the translator stations as well as for Station WXTM(FM) (99.7 MHz), Monticello, NY, from his studio at 75 Second Street Dumont, NJ. He is apparently using the STL to deliver the programming to the translators directly, which is a violation of Sections 74.531 and 74.1231 (b) of the Commission's Rules. The feed to the WXTM transmitter in Monticello, NY from Turro's Dumont studio is probably accomplished by means of telephone lines.

Station WXTM is licensed to Mr. Wesley R. Weis d/b/a Monticello Mountaintop Broadcasting, Inc., 11 Old Tappan Road, Old Tappan, NJ 07675, telephone (201)-501-0101. From what we can tell, the main studio for Station WXTM is located on Old Route 17, Ferndale, NY. The complainant attempted to contact Station WXTM at (914)-292-0751. The call was automatically redirected to Mr. Turro's studio in Dumont, NJ. We suspect that the main studio of Station WXTM in Monticello is essentially unattended.

It is requested that your Office review this correspondence and inspect Stations W276AQ, W232AL and WXTM (FM) forthwith, as outlined in the Memorandum of Understanding between the Compliance and Information and Mass Media Bureaus. In particular, we are seeking information concerning whether the Station WXTM(FM) main studio is staffed and capable of originating programming; how the STL (WMG-499) is oriented and operating; how programming is otherwise delivered among the various stations; who operates the WXTM transmitter and from where; and whether there is a LMA or similar agreement governing WXTM.

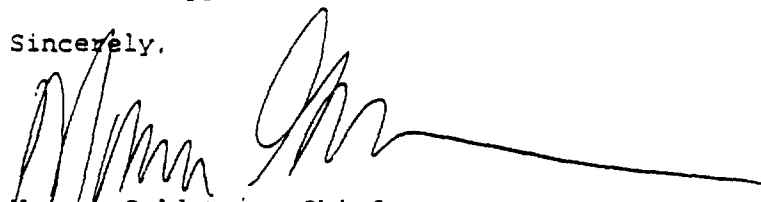
000275

We have enclosed copies of the complaint and engineering report submitted by Universal Broadcasting of New York, Inc. Be advised that the complainant has requested **CONFIDENTIALITY**.

Please return the results of your inspection to Mr. Stephen Barone of the Complaints and Investigations Branch, Enforcement Division, Mass Media Bureau.

Your assistance in this matter is appreciated.

Sincerely,



Norman Goldstein, Chief  
Complaints and Investigations Branch  
Enforcement Division  
Mass Media Bureau

**Attachments**

-----  
FROM: (Name, org. symbol, Agency/Post) | 2025 M Street  
Sandra E. Watson, FOB Liaison | Room 8302  
Complaints and Investigations Branch | EMail - SWATSON  
Enforcement Division, Mass Media Bur. | 418-1430  
-----

000276

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COHN AND MARKS

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TELEPHONE (202) 293-3860  
TELECOPIER (202) 293-4827

**CONFIDENTIAL**

DIRECT DIAL

(202) 452-4831

**Not For Public Inspection**

February 15, 1995

VIA HAND DELIVERY

95020241

Mr. Norman Goldstein, Chief  
Complaints and Investigations Branch  
Enforcement Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 8210  
Washington, D.C. 20554

Dear Mr. Goldstein

On behalf of Universal Broadcasting of New York, Inc., licensee of AM Broadcast Station WVNJ, Oakland, New Jersey ("Complainant"), the Commission is hereby requested, pursuant to Sections 1.80, 1.89 and 1.91 of the Commission's Rules, to (a) investigate ongoing and blatant violations of the FM translator rules by Gerard A. Turro ("Turro"), licensee of FM Translator Stations W276AQ, Fort Lee, New Jersey, and W232AL, Pomona, New York, and Aural Intercity Relay Station WMG499, Dumont, New Jersey, and Wesley R. Weis ("Weis"), President, Director and 100% owner of Monticello Mountain Top Broadcasting, Inc., licensee of FM Broadcast Station WXTM, Monticello, New York, and licensee of FM Translator Station W244AS, Oakhurst, New Jersey, (b) impose forfeiture penalties against Turro and Weis and (c) issue an order directing Turro and Weis to show cause why an order of revocation and a cease and desist order should not be issued. In support thereof, the following is set forth.

Complainant/Standing. Complainant requests that its identity be kept confidential by the Commission as Turro and Weis can be expected to mount political pressure and public opinion against any threat to their current operations. Complainant began operating Station WVNJ on December 13, 1993 to provide local broadcast service to Oakland and the surrounding areas of

000277

LAW OFFICES  
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ALLAN ROBERT AGLER  
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**CONFIDENTIAL**

DIRECT DIAL

(202) 452-4831

**Not For Public Inspection**

February 15, 1995

VIA HAND DELIVERY

95020241

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Complaints and Investigations Branch  
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2025 M Street, N.W., Room 8210  
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000278

Bergen County, New Jersey.<sup>1/</sup> WVNJ is the only transmission facility authorized at Oakland, New Jersey and is one of only two commercial broadcast stations licensed in Bergen County, New Jersey.<sup>2/</sup> As a new station trying to establish itself and provide local service to its community of license and its surrounding service area, WVNJ is severely and adversely impacted by the illegal operations of Turro and Weis which will be detailed below.

Relationship Between Turro and Weis. Turro and Weis were co-owners of FM Translator Station W232AL, Pomona, New York. On October 18, 1994, however, Turro and Weis filed an application (File No. BALFT-941019TC) to assign the license of W232AL solely to Turro; that assignment of license was in consideration of Turro assigning the license of FM Translator Station W244AS, Oakhurst, New Jersey, to Weis (File No. BALFT-941019TD). Presumably, these transactions were made to divest Weis from involvement with FM Translator W232AL, in order to comply with Section 74.1232(e) of the rules, as that translator would be used to rebroadcast the signal of WXTM which was being acquired by Weis.<sup>3/</sup>

By letter dated November 30, 1994, Turro's engineering firm, Carl T. Jones Corporation, notified the Commission that FM Translator Station W276AQ, Fort Lee, New Jersey, licensed to Turro, was rebroadcasting the signal of Station WXTM, Monticello, New York (see Attachment 2). Although WXTM is a Class A FM facility located approximately 100 km (62 miles) north of the W276AQ transmitter site, no explanation was given as to how the signal of WXTM would be received by W276AQ. Complainant has determined that Turro is providing all or substantially all of the programming being broadcast by WXTM; such programming is being originated by Turro

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- <sup>1/</sup> WVNJ is authorized unlimited time operation on 1160 kHz with a power of 2.5 kW nighttime and 10 kW daytime, using a three tower directional antenna system at nighttime and a four tower directional antenna system for its daytime operation; an application (File No. BMP-940819AB) is pending to increase the daytime power of WVNJ to 20 kW using the existing four tower daytime directional antenna system.
- <sup>2/</sup> The other station licensed in Bergen County, New Jersey is WWDJ(AM), Hackensack, New Jersey.
- <sup>3/</sup> WXTM was an unbuilt station when Weis acquired it on October 18, 1994 pursuant to Commission authority granted in Application File No. BAPH-940725GR. Station WXTM was placed in operation pursuant to automatic program test authority on or about October 31, 1994 when an application for license (File No. BLH-941031KD) was filed.

Mr. Norman Goldstein, Chief  
February 15, 1995  
Page 3

from a studio located at 75 Second Street, Dumont, New Jersey, and transmitted to WXTM by broadcast conditioned telephone lines. Turro's Dumont, New Jersey studio is also listed as a remote control point for WXTM (see page 6 of Attachment 1) and when Howard Warshaw, the Complainant's Vice President, Secretary, Director and 50% owner, called WXTM in Monticello, New York, the call was routed to Turro's Dumont, New Jersey studio and answered by Turro (see statement under penalty of perjury of Howard Warshaw at Attachment 3).

Description of Illegal Operations. FM Translator Station W276AQ, 103.1 MHZ, operates with an effective radiated power of 35 watts and an antenna radiation center above average terrain of 140 meters from a transmission site in Fort Lee, New Jersey. Prior to November 1994, W276AQ rebroadcast the signal of noncommercial educational FM Broadcast Station WJUX, Franklin Lakes, New Jersey; WJUX is licensed to Bergen County Community Broadcast Foundation ("BCCBF"). The principals of BCCBF, a not-for-profit corporation, are Turro and his wife and BCCBF's business address is listed as 687 Orchard Street, Oradell, New Jersey, the residence address of Turro. WJUX (formerly WRRH) operates on 88.7 MHZ and was acquired by BCCF from Ramapo-Indian Hills Regional High School District Board of Education in late 1982 for a purchase price of \$100,000, with \$15,000 down and the balance of \$85,000 to be paid over a ten year period, such balance to be personally guaranteed by Turro in the form of a second mortgage on his residence (see Agreement dated September 21, 1992 and set forth as Attachment 4).

On October 25, 1994, WJUX suspended broadcast operations for the stated reason of alleviating interference caused to and received from co-channel Station WPAC-FM, Wayne, New Jersey; the Commission was notified of such suspension of operations by letter dated November 22, 1994 and authority to remain silent was granted by Commission letter dated December 9, 1994 (see Attachment 5). As noted above, substantially concurrent with the suspension of broadcast operations on WJUX, WXTM began broadcast operations and shortly thereafter the Commission was notified that W276AQ had changed its primary station from WJUX to WXTM.

Set forth as Attachment 6 is an Engineering Report of Cohen, Dippell and Everist which establishes through measurement data that W276AQ is originating, not rebroadcasting, 100% of its program transmissions in violation of Section 74.1231(g) of the Commission's Rules which limits program origination by FM translator stations to no more than 30 seconds per hour. The programming originated on W276AQ is transmitted to the translator station from Turro's Dumont, New Jersey studios via Intercity Relay Station WMG-499 which is a violation of Section 74.1231(b) of the Rules which restricts the use of FM translators for the purposes of rebroadcasting the signals of a primary FM radio station or another translator station which have been received "directly

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through space."<sup>4/</sup> In an effort to camouflage this blatantly illegal operation of W276AQ, Turro is apparently simultaneously transmitting the W276AQ programming to WXTM by broadcast conditioned telephone line; however, it is clear from the Engineering Report that the high quality signal being originated by W276AQ rules out any possibility that the signal of WXTM is being rebroadcast either through direct off-air reception of that station or by relay of the WXTM signal by Translator Station W232AL, Pomona, New York.<sup>2/</sup>

Turro is doing business as "Juke Box Radio" which is referred to as "your hometown radio station" in promotional material distributed by Turro (see Attachment 6). Set forth as Attachment 7 is a transcript, commissioned by the Complainant, of the commercial and promotional programming broadcast by FM Translator W276AQ from 11:15 a.m. on January 5, 1995 through 11:20 a.m. on January 7, 1995. It will be observed that almost all the commercial programming originated by W276AQ is directed to Bergen County, New Jersey, which is not even within the service area of WXTM. Indeed, Turro's own marketing material (see Attachment 6) refers to WXTM as an "affiliate" of Juke Box Radio - 103.1 FM (the frequency of FM Translator Station W276AQ). In other words, by Turro's own admission, he is operating W276AQ as if it were a primary originating FM broadcast station. WXTM is nothing more than a diversion or camouflage for Turro's blatantly illegal program origination over W276AQ; nevertheless, WXTM is actively participating in this scheme to violate the Commission's Rules and, accordingly, both Turro and Weis' qualifications to continue to be licensees of the Commission are at issue.

This scheme of Turro and Weis to evade and violate the Commission's Rules was not undertaken lightly but, rather, is the product of deliberate action over time. As the facilities of WJUX could not be improved without causing interference to other broadcast stations, Turro either directly or indirectly has attempted to persuade the Commission to permit W276AQ to increase its facilities to either 110 watts nondirectional or 1000 watts directional so that "Juke Box Radio" would have the ability to reach all areas of Bergen County with a strong, clear signal. Turro also lobbied for a waiver of the Commission's Rules to permit W276AQ to originate local programming, thereby avoiding the cumbersome process of originating programming through WJUX in Franklin Lakes,

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<sup>4/</sup> W276AQ is well outside the protected 1.0 mV/m contour of WXTM and does not operate on a reserved channel which would allow it to receive its signal input by means other than off-air reception.

<sup>2/</sup> Cohen, Dippell and Everist are of the opinion that W232AL is either retransmitting the signal of W276AQ or it too is receiving a direct program feed from Turro's Dumont, New Jersey studio.

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New Jersey for rebroadcast by W276AQ, with the inherent technical, programming and non-profit constraints which were imposed by such operation.<sup>6/</sup>

In anticipation that efforts to improve the signal strength of W276AQ and to obtain a waiver of the original requirements would meet with failure, Turro, as early as January 1991, laid out for the Commission the basic structure of his scheme to evade and violate the Commission's Rules in a request for declaratory ruling to which the Commission responded by letter dated November 19, 1991 (see Attachment 9). Turro's request for declaratory ruling, however, was short on detail and was misleading in describing the relationship between the primary station and the translator as, in this case, the primary station is not financially supporting the translator station but, rather, the translator station is supporting the primary station, as the commercial time is being sold by Turro to businesses operating wholly outside the service of the primary station. This is a classic case of the tail wagging the dog or, more precisely, Turro making a mockery of the Commission's Rules which require that FM translator stations operate as a secondary rebroadcast service and not as a primary originating service.

Conclusion. For the reasons set forth above, the Commission is respectfully requested to expeditiously investigate this complaint, confirm the facts set forth herein, impose forfeitures and penalties against Turro and Weis and issue an order directing Turro and Weis to show cause why an order of revocation and a cease and desist order should not be issued.

Respectfully submitted



Roy R. Russo

Richard A. Helmick

Enclosures

cc: Alan J. Schneider, FCC, Room 408  
(w/enclosures)

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<sup>6/</sup> Set forth at Attachment 8, for example is a copy of the Commission's letter of February 10, 1994 to Congresswoman Marge Roukema which addresses the request of a constituent advocating a power increase and waiver of the program origination requirements of W276AQ.

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ATTACHMENT 1

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